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July 24, 2006

Hon. James Orenstein
Magistrate Judge
United States District Court
for the Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *In re Holocaust Victim Assets Litig.*
Application of Burt Neuborne - CV-06-983 (ERK)(JO)

Dear Judge Orenstein:

The parties' exchange of letter briefs on July 21, 2006 raises two issues warranting brief comment concerning the state of the record for the Court's review..

I.

The May 18, 2006 order of the Court directing the July 21 exchange of letter briefs described five issues that were to be reviewed, explicitly reserving the issue of adequacy of notice under Rule 23(h) for initial consideration by Judge Block. Accordingly, Professor Neuborne did not discuss the issue in his submission. However, the letter briefs submitted by Mr. Swift and Mr. Dubbin each argue that notice of this fee application is inadequate under Rule 23(h).

If the Court wishes to entertain the issue, as Objectors urge, Professor Neuborne has no objection to considering the notice issue in this proceeding. In order to assist the Court with management of the record, we would note that the Rule 23(h) notice issue is discussed in the March 17, 2006 Declaration of Burt Neuborne at pp. 88-90, and Exhibit I (setting forth examples of the massive newspaper publicity surrounding this application). Further, this Court may take notice of the fact that in the months since March 17, the intensive newspaper coverage has continued, including editorials in the New York Times and New York Daily News, as well as numerous news stories. The notice issue is also discussed in the March 17, 2006 Memorandum of Law Submitted by Burt Neuborne, at pp. 8; 16-19, noting that Rule 23(h), even if it applies to this application, merely requires "reasonable" notice, which has unquestionably occurred in the form of the massive newspaper publicity surrounding this

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application, and the posting, since mid-February, of all documents relating to this application on the Swiss bank settlement web site.

II.

Petitioner understood the Court's May 18th order to indicate that the record was closed except for the final exchange of letter briefs. Both Mr. Swift and Mr. Dubbin have placed additional evidentiary material in the record. Professor Neuborne does not object to the new evidentiary material.

The bulk of the new evidentiary material submitted by Mr. Dubbin consists of documents already in the record in CV 96-4948. Most of the documents are either submissions by Professor Neuborne to Chief Judge Korman or reported decisions issued by Chief Judge Korman alluding to Professor Neuborne's waiver of counsel fees for his pre-settlement work. These issues have been addressed in the March 2, 2006 transcript in which Chief Judge Korman has already stated that he read Professor Neuborne's submissions and issued his opinions with the clear understanding and intention that Professor Neuborne was to be compensated for his post-settlement work. March 2, 2006 Transcript, pp. 5-7; 10-11. The several opinions of the Second Circuit in earlier phases of this complex case and the letters from the small group of objectors proffered by Mr. Dubbin are discussed in Professor Neuborne's March 17 declaration at pp. 85-88 and do not add anything new.. Finally, the exchange in *Jewish Life* proffered by Mr. Dubbin describes Professor Neuborne's conception of his responsibilities as Lead Settlement Counsel.

Accordingly, we do not object to the expansion of the record by Mssrs. Swift and Dubbin.

Respectfully submitted,

/s/

Samuel Issacharoff

cc: Samuel J. Dubbin, P.A.
Robert A. Swift